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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/470,344	12/22/1999	DANIEL I. KERPELMAN	GEMS;0065/	6033

7590 03/22/2005

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EXAMINER

MORGAN, ROBERT W

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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09/470344

EXAMINER

ART UNIT	PAPER
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20050313

DATE MAILED:

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Commissioner for Patents

See Attachment

Art Unit: 3626

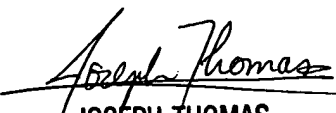
ATTACHMENT TO PTO-90C

The reply brief filed 11/22/04 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (703) 605-4441. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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GROUP 3600

Application of:
Daniel I. Kerpelman et al.

Serial No.: 09/470,344

Filed: December 22, 1999

For: MEDICAL FACILITY
COMMUNICATIONS
TOPOLOGY

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Group Art Unit: 3626

Examiner: Morgan, Robert W.

Atty. Docket: GEMS:0065/YOD
15-SV-5373

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CERTIFICATE OF MAILING 37 C.F.R. 1.8	
I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, Mail Stop Appeal Brief-Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below:	
November 17, 2004 Date	 Lynda Howell

REPLY BRIEF PURSUANT TO 37 C.F.R. §1.193

This Reply Brief is being filed in response to the Examiner's Answer mailed on October 4, 2004.

In the Examiner's Answer the Examiner proposed a different claim grouping than that summarized in the Appeal Brief. Appellants do not contest the alternative grouping proposed by the Examiner.

Appellants have carefully reviewed the Examiner's arguments and the response to the arguments advanced in the Appeal Brief. Appellants maintain that the Wong et al. reference cannot render the claims obvious. This is true even if combined with the teachings of the "definitions" advanced by the Examiner. Appellants understand that the "definitions" were advanced to substantiate what the Examiner contends is well-known in the art. However, these definitions cannot be used to provide elements simply missing

from the primary reference, and certainly not when the combination is contrary to the structure and function of the primary reference system itself.

The Examiner argues that the well-known knowledge of Domain Name Systems and Domain Name Systems Servers would lead one skilled in the art to provide a data communications control system in place of the medical image server 12 of Wong et al. In doing so, the Examiner repeatedly oversimplifies the claimed data communication control system as providing “uniform and rapid distribution between client workstation (see: column 7, lines 10-14) [sic].” The examiner would then base the replacement on the fact that “the operation of the of the Internet includes dialing up an Internet service provider (remote service provider) via modem to connect a network using the same communication protocols to pass information to and from each other.” *See*, Examiner’s Answer, page 19, Response to Arguments.

This argumentation misses the mark on at least two counts. Firstly, the data communications control system recited in the claims performs more than simple uniform and rapid distribution between a client workstation and the Internet. The Examiner’s rejection must be based upon all of the recitations contained in the claims, and not a simplification of the function of the data communications control system. Secondly, as argued in the Appeal Brief, the Internet service provider argued by the Examiner is not analogous to a remote service provider as recited in the claims. The claims simply cannot be interpreted without any reference or connection whatsoever to the specification. The remote service provider intended by the claims is clearly one that provides more than simply Internet access.

As also pointed out in the Appeal Brief, the present invention makes use of a data communications control system where none existed in the prior art. Indeed, if the operations of such a data communications control system were so well-known in the art, one would expect to find such systems throughout hospitals and other medical institutions. Such is not the case. Prior to the invention, to the knowledge of the

Appellants, medical facilities used separate modems or connections for individual pieces of equipment. If a piece of equipment was incapable of such separate connectivity, it simply could not be remotely serviced. The equipment did not include coordinated communication by virtue of a communications control system tied to an internal data communications network.

As also pointed out in the Appeal Brief, the replacement of the medical image server 12 of Wong et al. with a Domain Name Systems server is antithetical to the teachings of Wong et al., particularly regarding the connection and operation of the medical image server. Appellants would direct the Board's attention to pages 10, 11 and 12 of the Appeal Brief as regards claim 1. Similar arguments may be made with respect to the other independent claims. This point does not appear to have been directly addressed by the Examiner in the Examiner's Answer.

Regarding a particular feature of claim 32, that is, the automatic access of client data including data indicative of a location of a mobile client, the Examiner argues that even an e-mail address would read on the recitation. Appellants disagree. Appellants believe that a fair reading of the claim, particularly in light of the specification, would teach one skilled in the art that the access to the client data which is recited in the claim would provide information relating to the actual location of the mobile client. Simple reasoning is compelling on this point. If the Examiner assumes that a mobile client's address is an e-mail address, this location would apparently not change even if the client is mobile. In other words, there would be no reason to obtain a location of a mobile client if the location were always the same. Some meaning must be breathed into these recitations. Appellants submit that the Board should do so by simple reference to the specification. Appellants submit that the "broadest reasonable interpretation" made by the Examiner is simply not reasonable.

The foregoing are only reiterative points regarding the reasons why the pending claims are allowable. Appellants rely upon all of the reasons advanced in the Appeal

Brief, and respectfully request that the Board carefully review the claims in view of these arguments and indicate the allowability of the claimed subject matter.

Respectfully submitted,

Date: 11/12/2004

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